

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/15/2024
--

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	x	
	:	
UNITED STATES OF AMERICA	:	
- v. -	:	CONSENT PRELIMINARY ORDER OF FORFEITURE/ <u>MONEY JUDGMENT</u>
BRENT WHITELEY,	:	
Defendant.	:	S2 20 Cr. 534 (GHW)
-----	x	

WHEREAS, on or about May 17, 2021, BRENT WHITELEY (the “Defendant”), was charged in a superseding Information, S2 20 Cr. 534 (GHW) (the “Information”), with conspiracy to commit securities fraud, to make false filings with the SEC, and to make false statements to auditors, in violation of Title 18, United States Code, Section 371 (Count One); securities fraud in violation of Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; Title 18, United States Code, Section 2 (Count Two); conspiracy to commit wire fraud in violation of Title 18, United States Code, Section 1349 (Count Three); wire fraud in violation of Title 18, United States Code, Sections 1343 and 2 (Counts Four and Five); and obstruction of the SEC’s investigation in violation of Title 18, United States Code, Sections 1505 and 2 (Count Six);

WHEREAS, the Information included a forfeiture allegation as to Counts One through Five of the Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One through Five of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds

traceable to the commission of the offenses charged in Counts One through Five of the Information that the Defendant personally obtained;

WHEREAS, on or about May 17, 2021, the Defendant pled guilty to Counts One through Six of the Information, pursuant to an agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One through Five of the Information and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses charged in Counts One through Five of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One through Five of the Information that the Defendant personally obtained;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$7,741,082 in United States currency, representing the amount of proceeds traceable to the offenses charged in Count One through Five of the Information that the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Count One through Five of the Information that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney, Allison Nichols, of counsel, and the Defendant, and his counsel, Samy Khalil, Esq., that:



1. As a result of the offenses charged in Counts One through Five of the Information, to which the Defendant pled guilty, a money judgment in the amount of \$7,741,082 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offenses charged in Counts One through Five of the Information that the Defendant personally obtained, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, BRENT WHITELEY, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment into the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate

or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By:



ALLISON NICHOLS  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, NY 10007  
(212) 637-2366

February 14, 2024

DATE

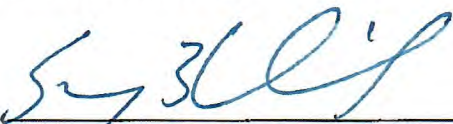
BRENT WHITELEY

By:

  
BRENT WHITELEY

2/8/24  
DATE


By:



SAMY KHALIL, ESQ.  
Attorney for Defendant  
4200 Montrose Blvd, Suite 440  
Houston, Texas 77006

2/8/24  
DATE

SO ORDERED:

  
HONORABLE GREGORY H. WOODS  
UNITED STATES DISTRICT JUDGE

2/14/2024  
DATE